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June 12, 2025

VIA ECF

Honorable Margo K. Brodie
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Federal Defenders of New York, Inc. v. Federal Bureau of Prisons, et al.*,
No. 19-cv-00660 (E.D.N.Y.)

Dear Judge Brodie:

I write to update the Court on the parties' ongoing efforts to address issues raised in this litigation through mediation.

I. Background

I have continued to receive call and videoconference data from the parties. I also continue to be in communication with the Federal Defenders, Inc. ("Plaintiff") and their counsel, the government, and representatives of the Metropolitan Detention Center ("MDC") and Metropolitan Correctional Center ("MCC").¹

My communications with the Federal Defenders and the government focused on the following topics:

1. The current status of in-person legal visitation at the MDC.
2. The execution of the current protocol for scheduling and placing attorney-client phone calls at the MDC.

¹ I held joint mediation calls with the parties on May 13, May 20, May 27, and June 10, 2025. Magistrate Judge Peggy Kuo attended the calls on May 20 and May 27 as well.

II. Telephonic Contact

The parties continue to schedule and facilitate legal phone calls under the Court Protocol for Attorney Calls and Teleconference Hearings. Pursuant to the Protocol, attorney-client calls are scheduled by Federal Defenders for afternoon slots of one-half hour each from 12pm to 3pm at the MDC. As Your Honor is aware, the parties have also made efforts to expand legal call hours beyond the times provided in the Protocol. *See* ECF Nos. 70 & 76.

According to information received from the parties, MDC scheduled 433 calls between May 8 and June 11, 2025. Of these 433 calls, 276 were completed,² 13 were attempted but not completed, seven were cancelled or rescheduled by the inmate's attorney, eight were not completed because the inmate had an in-person legal visit, four were not completed because the inmate was on a different floor or unit, four were not completed because the inmate refused the call, two were not completed because the inmate was in the SHU, one was not completed because the inmate was in court, one was not completed because the inmate was on a hospital trip, two were not completed because the attorney had an international or long-distance phone number, two were not completed because the inmate was not at the institution, one was not completed because the "phone disconnected," and seven were not completed because the attorney was restricted from calls with a specific inmate. Finally, four calls were not completed for unknown reasons, and we are unaware of the outcome for 101 calls. We are working with the parties to gather more information about these calls.

Additionally, Federal Defenders report some technical issues over the past five weeks.

III. Videoconferencing

According to the information received from the parties, MDC scheduled 406 videoconferences between May 8 and June 11, 2025. Of these 406 VTCs, 244 were completed,³ four VTCs were completed as a call,⁴ six were attempted but not completed, seven were not completed because the inmate was on a different floor or unit, three were not completed because the inmate was moved to the SHU, six were not completed because the inmate had an in-person legal visit, one was not completed because the inmate had an in-person social visit, seven were not completed because the inmate refused the VTC, five were cancelled or rescheduled by the inmate's attorney, three were not completed because the inmate was not at the institution, two were not completed because the inmate was in court, one was not completed because the inmate was receiving medical treatment, one was not completed because the inmate had a "psychotic episode," and one was not completed due to a "fight on the unit." Finally, 11 VTCs were not completed for

² Federal Defenders reported two of these calls as not completed.

³ Federal Defenders reported two of these VTCs as not completed.

⁴ The parties reported that this VTC was switched to a call because of technical issues.

unknown reasons,⁵ and we are unaware of the outcome for 103 VTCs. We are working with the parties to gather more information about these VTCs.

Again, Federal Defenders report some technical issues with VTCs over the past five weeks.

IV. In-Person Visiting

The parties continue to discuss the tracking of attorney wait times, and the MDC continues to collect and maintain attorney-generated data on wait times. Although incomplete because of limited attorney participation in the data-gathering process, this data is available should the need to track specific wait times arise. The parties continue to discuss ways to efficiently collect and store the data and to increase participation by defense counsel in the necessary record keeping.

The parties continue to discuss issues related to the implementation of procedures regarding legal access. Most recently, the institution finalized a legal access guide for use at the institution on August 30, 2024, which Federal Defenders provided various proposals for throughout the drafting process. The guide covers a variety of areas that are the subject of our discussion during the mediation calls, which we hope will improve communication at the institution and provide clear instructions. As of December 13, 2024, hard copies of the legal access guide are available in the institution's East and West buildings. An electronic copy of the legal access guide is now available on the MDC's website as well.

Additionally, the parties continued discussions concerning MDC's new visitor tracking program, which aims to compile information from visitors and reduce wait-times associated with entry to the institution. Following the program's launch in mid-April 2025, Federal Defenders reported delays for certain legal visits. MDC responded that these delays were associated with the initial information collection process for the new system, which should expedite visitors' entry moving forward. The parties will continue to discuss the new program during its implementation and as any issues arise.

The parties have also discussed ongoing technical issues with telephones and VTC equipment in various units over the past several weeks, which are investigated regularly by the institution's staff. Most recently, Federal Defenders raised numerous incidents in May and June 2025, where headphones were either reportedly unavailable or incompatible with the VTC equipment at the institution. The institution has maintained that headphones continue to remain available to inmates despite these reports. To address these concerns, the institution is additionally considering a pilot program, which would involve Legal Assistants offering headphones to inmates prior to their VTCs.

Additionally, the parties are engaged in a review of the latest draft settlement agreement. I will continue to discuss these and other issues with the parties.

⁵ Federal Defenders reported one of these VTCs as completed.

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Respectfully,

/s/ Loretta E. Lynch
Loretta E. Lynch

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